

TRANSAMERICA LIFE)
INSURANCE COMPANY,)
WESTERN RESERVE LIFE) No. C 06-110
ASSURANCE CO. OF OHIO, and)
TRANSAMERICA FINANCIAL)
LIFE INSURANCE COMPANY) COMPLAINT FOR DECLARATORY
) JUDGMENT
Plaintiffs,)
))
vs.)
))
) JURY TRIAL DEMANDED
LINCOLN NATIONAL LIFE)
INSURANCE COMPANY,)
))
Defendant.)

I.

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2. Jurisdiction is predicated upon 28 USC §1331, 28 USC §1332, and 28 USC §1338(a).

3. Venue over this action is proper pursuant to the provisions of 28 USC §1391(b) and (c) and 28 USC §1400.

4. Plaintiffs herein seek a declaratory judgment under the provisions of 28 USC §2201.

II.

PARTIES

5. TLIC is a for-profit Iowa corporation having its principal place of business at 4333 Edgewood Road NW, Cedar Rapids, IA 52405. TLIC has been assigned Corporation No. 69666 by the Iowa Secretary of State.

6. WRL is a for-profit Ohio corporation having its principal place of business at 570 Carillon Parkway, St. Petersburg, FL 33716. WRL has been assigned Registration No. 535451 by the Ohio Secretary of State.

7. TFLIC is a New York corporation having its principal place of business at 4 Manhattanville Road, Purchase, NY.

8. Plaintiffs are in the business of designing, marketing and selling annuity products and other financial products.

9. LNL is a for-profit corporation organized and existing under the laws of the state of Indiana with its principal place of business located at 1300 South Clinton St., Fort Wayne, IN 46802. LNL has been assigned Corporation Control Number 191105-166 by the Indiana Secretary of State.

10. LNL is in the business of designing, marketing and selling annuity products and other financial products.

11. LNL is registered with the Iowa Insurance Division as Iowa Company Code 0272 and is licensed to do business in Iowa. LNL does business within the counties comprising the Northern District of Iowa as defined by 28 U.S.C. §95(a).

III.

GENERAL ALLEGATIONS

12. TLIC, WRL and TFLIC all offer annuity products to the consuming public. All of the key personnel charged with the responsibility for the annuity products of each of these companies are located in Cedar Rapids, Iowa. Specifically, the activities conducted in Cedar Rapids regarding the annuity products offered by all three of Plaintiffs include the following:

- A. All of the new product development;
- B. All actuarial design and analysis work;

- C. All product contract documentation creation;
- D. All regulatory filing and other regulatory work;
- E. All legal activity regarding product development and regulatory compliance; and
- F. All administration activity relating to annuity contracts and attached riders.

13. LNL is the owner of United States Patent No. 7,089,201 (“ ’201 patent”) having the following title for the invention set forth therein:

Method and Apparatus for Providing Retirement Income Benefits.

Ownership of the ’201 patent was conferred by the inventors each of whom has executed and filed with the United States Patent and Trademark Office a duly executed assignment of ownership.

14. LNL initially provided written notice to Plaintiffs of the existence of a Patent Application No. 09/406,290 covering a method for the administration of an annuity product. LNL also provided Plaintiffs with a copy of the specification portion of the patent application then pending before the United States Patent and Trademark Office.

15. Subsequently, by letter of July 28, 2006, LNL advised that Patent Application No. 09/406,290 was subject to an Issue Notification from the United States

Patent and Trademark Office. The Issue Notification stated that Patent Application No. 09/406,290 would issue as US Patent No. 7,089,201 ('201 patent) on August 8, 2006. A copy of the Issue Notification is appended hereto as Exhibit A.

IV.

CAUSE OF ACTION

16. Plaintiff incorporates by reference herein all allegations set forth in ¶¶1-15 of this Complaint.

17. Plaintiffs offer for sale a number of different riders to annuity product contracts. Two of these riders are called the "5-For-Life" rider and Guaranteed Principal Solution Rider (referred to as "GPSR").

18. The information and documentation regarding the '201 patent was provided to Plaintiffs by LNL under threat of patent infringement litigation and, further, in an attempt to have Plaintiffs enter into a license or other settlement with LNL regarding Plaintiffs' commercial offering of the 5-For-Life rider and the GPSR.

19. The conduct of LNL constitutes an express or implied charge that Plaintiffs' 5-For-Life rider and GPSR infringe the '201 patent.

20. Plaintiffs and LNL have adverse legal interests pertaining to the scope, coverage and validity of the '201 patent which constitutes a substantial controversy.

21. Plaintiffs hold a real and reasonable apprehension that each, individually or collectively, will be subject to patent infringement suit by LNL under the '201 patent.

22. On information and belief, Plaintiffs' offer for sale and other activities related to the 5-For-Life rider, the GPSR, and other annuity products do not infringe the '201 patent.

23. On information and belief, the '201 patent is invalid under the provisions of 35 USC §102, under the provisions of 35 USC §103, and on other grounds.

24. Plaintiffs are entitled to a declaration of their rights and interests relating to the allegations and claims of LNL under the provisions of 28 USC §2201(a).

WHEREFORE, Transamerica Life Insurance Company, Western Reserve Life Assurance Co. of Ohio, and Transamerica Financial Life Insurance Company, Plaintiffs, requests the following relief in conjunction with the allegations set forth above in this Complaint:

A. Entry of an Order of this Court declaring that the actions of Plaintiffs, including the offer for sale and sale of the 5-For Life rider, the GPSR and other annuity products do not infringe or otherwise violate any rights of Lincoln National Life Insurance Company or others claiming a beneficial interest under the '201 patent;

B. Entry of all further declarations of relief as are necessary and proper to declare the relative rights and interests of the parties relating to the '201 patent; and

C. Entry of an Order assessing all costs associated with this action to Lincoln National Life Insurance Company, Defendant.

DEMAND FOR JURY TRIAL

Transamerica Life Insurance Company, Western Reserve Life Assurance Co. of Ohio, and Transamerica Financial Life Insurance Company, Plaintiffs, hereby demand that all issues be tried by jury.

Respectfully submitted,

/s/ Glenn Johnson
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